

**REMARKS/ARGUMENTS**

***Priority***

Applicant will obtain a certified English Translation of the priority document and will separately submit it.

***General Amendments***

Claims 1 and 4 have been cancelled.

New claims 45, 46 have been added. No new matter is added.

***Claim Objections***

Claims 3-4, 12, 24-25 and 33 were objected as being of improper dependent claim form for failing to further limit the subject matter of a previous claim. Applicant believes the current amendments to the claims overcome this rejection. Applicant respectfully asks the Examiner to lift the objections.

***Standards for Patentability***

"An applicant for a patent is entitled to the patent unless the application fails to meet the requirements established by law. It is the Commissioner's duty (acting through the examining officials) to determine that all requirements of the Patent Act are met. The burden is on the Commissioner to establish that the applicant is not entitled under the law to a patent .... In rejecting an application, factual determinations by the PTO must be based on a preponderance of the evidence, and legal conclusions must be correct." *In re Oetiker*, 977 F.2d 1443, 1449, 24 USPQ2d 1443, 1447 (Fed. Cir. 1992) (Judge Plager concurring).

"The precise language of 35 USC 102 that 'a person shall be entitled to a patent unless,' concerning novelty and unobviousness, clearly places a burden of proof on the Patent Office which requires it to produce the factual basis for its rejection of an application under sections 102 and 103." *In re Warner*, 379 F.2d 1011, 1016, 154 USPQ 173 (CCPA 1967), cert. denied, 389 U.S. 1057, reh'g denied, 390 U.S. 1000 (1968).

***Claim Rejections - 35 USC § 102***

The Examiner rejected claims 1-41, 43, and 44 under §102(b) as being anticipated by Linnet et al. (US 2003/0034881).

Applicant respectfully disagrees but in the interest of speedy prosecution has amended the claims to overcome the Examiner's objections.

Amendments have been directed to underline the feature that the electronic card, method and system according to the invention allows a mobile terminal to access the network in case of need also if the user has not entered the correct PIN code but has requested aid.

It is known that mobile terminals (like mobile phones) are provided with a PIN (Personal Identification Number) code that is known only to the user of the mobile phone. Only after the PIN has been entered, the mobile terminal is able to access the network to send messages to other users of the network, like aid centers.

Transmission of messages is not possible in standard emergency mode.

Linett discloses a device (a mobile phone) and a system for managing emergency situations, wherein the emergency device transmits aid messages (e.g. SMS messages) to a central system once a predetermined time, set by the user, has elapsed; this provides that if the user is unconscious the device automatically transmits the messages.

According to Linett, the emergency device can communicate over the network (and therefore access the network) only after the PIN code has been entered by the user of the mobile terminal, as clearly stated at paragraphs [0093] and [0094] (emphasis added):

*[0093] To use the device 10 the power switch 34 must be in the ON position. **Before allowing communications operations the device 10 prompts for entry of the user's PIN** by pressing the appropriate numeric keys corresponding to the PIN and the "ENTER"/"Select" button 26. **When the entered PIN matches the PIN stored on the SIMM card 40**, the device checks the user selected preferences of operation modes and activates the modes accordingly.*

*[0094] The device 10 then transmits a registration signal to an emergency communications network 102 of an emergency system 100 as shown in FIGS. 5 to 7.*

Differently from Linett, the mobile terminal according to the invention access the network in two cases: either the user enters the PIN code (like in Linett) or the user indicates the need for aid.

The request for aid is made before checking the PIN, therefore in case of need the mobile terminal access the network so as to be able to send messages or make calls to aid centers.

This feature is expressed in claim 45, which replaces claim 1. Claim 45, shown as amended, with emphasis added, and with footnotes to help explain support:

*45. System for the management of emergency situations, the system comprising a mobile terminal equipped with an electronic card, wherein **said electronic card** is provided with a personal identification code (PIN)<sup>1</sup>, is adapted to implement access functions to a mobile phone network of said mobile terminal<sup>2</sup>, and **is adapted to verify if there is the need for an aid<sup>3</sup> before checking the personal identification code (PIN) entered by a user of the mobile terminal, whereby if there is need for an aid the electronic card allows the mobile terminal to access the mobile phone network so as to be able to send at least an aid message<sup>4</sup> to a service center.***

This feature is also expressed in amended claim 22 (shown as amended, with emphasis added):

**22. (Currently Amended)** A method for the management of emergency situations through a mobile terminal equipped with an electronic card apt to implement functions for accessing a mobile phone network, the electronic card comprising memory areas containing personal data of an owner of said

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<sup>1</sup> Original claim 4.

<sup>2</sup> Page 6, lines 20-23.

<sup>3</sup> Original claim 5.

<sup>4</sup> Page 8, line 10.

electronic card, the method comprising:

- a first phase of inserting said electronic card into said mobile terminal;
- a second phase of switching on said mobile terminal;
- a third phase of checking whether aid is necessary, said third phase preceding a request of a personal identification code of said electronic card,
- a fourth phase, following said third phase, of accessing the mobile phone network in case aid is needed so as to allow the mobile terminal at least to send an aid message to a service center.**

This feature is expressed in amended claim 44 (shown as amended, with emphasis added):

*44. **(Currently Amended)** An electronic card for use in association with a mobile terminal and apt to implement access functions to a mobile phone network, the electronic card comprising memory areas containing personal data of an owner of said electronic card, and wherein the **electronic card** is provided with a personal identification code (PIN), is adapted to implement access functions to a mobile phone network of said mobile terminal after said PIN has been entered by a user of the mobile terminal, and **is adapted to verify if there is the need for an aid before checking said personal identification code (PIN), so that if there is need for an aid it allows the mobile terminal to access the mobile phone network so as to be able to send at least an aid message to a service center.***

This feature is expressed in new claim 46 (shown with emphasis added):

*46. **Electronic card provided with a personal identification code (PIN) and adapted to implement access functions of a mobile terminal to a mobile phone network, wherein said electronic card is adapted to allow a mobile terminal to access the network to send messages and/or to make calls if **the need for an aid has been verified before the personal identification code (PIN) has been entered by a user of the mobile terminal.*****

The invention, as claimed, therefore provides the great advantage that in case of need an aider can use the mobile phone or the SIM card of the aided person and, without entering the PIN code of the aided person, he can request help.

This is not possible with Linett which requires the user to switch on the mobile phone and to enter the PIN code in order to put the telephone in an operative condition.

In the system according to Linett, if the user loses consciousness and the mobile phone falls and switch off, the emergency device will not work and aid will not be delivered.

In the same way, if the emergency device according to Linett goes out of order, than aid cannot be requested, while with the invention anybody giving the first aid can still use the SIM card of the aided person to request more specific aid.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 828 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). MPEP § 2131.

Linnett et al. does not anticipate the present invention as claimed (as amended above) because each and every element as set forth in said claims are not found in Linnett et al. The §102(b) rejection should be lifted.

### **Conclusion**

If the Examiner feels it would advance the application to allowance or final rejection, the Examiner is invited to telephone the undersigned at the number given below.

Reconsideration and allowance of the application as amended is respectfully requested.

DATED this 26<sup>th</sup> day of October, 2009.

Best regards,

/Stephen M. Nipper/

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**CERTIFICATE OF EFS-WEB TRANSMISSION UNDER 37 CFR 1.8**

I HEREBY CERTIFY that this correspondence is being transmitted to the United States Patent and Trademark Office by EFS-Web on the date below.

DATED: This 26<sup>th</sup> day of October, 2009.

/Julie L. O'Tyson/

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